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09/966,700	09/28/2001	Steven G. Smith	20009.0248US01(01189)	6438

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EXAMINER
TRAN, PHUC H

ART UNIT	PAPER NUMBER
2416	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/966,700	SMITH ET AL.
	Examiner	Art Unit	
	PHUC H. TRAN	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>29 April 2008</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,2 and 4-13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) <u>1,2,4-7,11 and 12</u> is/are allowed.

6) ☐ Claim(s) <u>8-10 and 13</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an
international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 8-9 are rejected under 35 U.S.C. 102(e) as being McDowell by (US

20020035605).

- With respect to claim 8, McDowell discloses a method of receiving data sent from a

first computing device (Fig 2, Ref 210) to a plurality of second computing devices (Fig 7, Ref

731 and 733) over a wireless digital packet switched network (Fig 7, Ref 712) comprising at a

protocol server (Fig 2, Ref 136 for receiving IM message from Ref 210, Pages 7-8, Sec 90-98),

receiving data from a messaging application (WAP IM) running on a computing device over

wireless digital packet switched network, while maintaining contact with a remote system

accessing application (WAP browser) running on the computing device via the wireless digital

packet switched network (Page 3, Sec, 44, the subscriber retrieves information from private

database; Page 7-9, Sec 83-98, Page 10, Sec 106); forwarding the data from the messaging

application to a messaging server via the protocol server (Fig 2, Ref 210, 136, IM server);

determining intended recipients of the data at the messaging server and forwarding the data from

the messaging directly to the intended recipients without transmitting the data through the

protocol server (Figs 1 and 7-8, Pages 7-8, the IM message is forwarded to the intended

recipients (Fig 7-8, Ref subscriber,) via internet, Sec 90-98 or from 704 via internet 700 to 714,

Fig 7, See Page 7, Sec 91, IM server allows the wireless users to send/receive an instant

messages with wireline users, multipoint to multipoint). McDowell explicitly teaches the instant

message is running in the first computing device (see col. 2, line 40 from the wireless devices 36

to LAN 32). Therefore, it would have been obvious to a person of ordinary skill in the art at the

time of the invention to understand that McDowell has run two application such as WAP

browser and WAP IM.

         -With respect to claim 9, McDowell discloses at the protocol server (fig 2, Ref 136)

receiving a request for legacy data from the remote system accessing application via the wireless

digital packet switched network (fig 2, Ref 201-207) and forwarding the request to a remote

system (Fig 2, Ref 119 or Fig 7, Ref 741); (Page 3, Sec, 44, the subscriber retrieves information

from private database; Page 7-9, Sec 83-98, Page 10, Sec 106)

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

McDowell (US 20020035605) in view of Doss (US 20020188620)/Parsons (US 20020085701).

-With respect to claims 10 and 13, McDowell discloses a method and system of sending

data from a first computing device (Fig 2, Ref 210) to at least one of a plurality of second

computing devices (Fig 7, Subscriber) over a wireless network (Fig 2, Ref 201 and 207)

comprising initiating a first application (Web Browser, WAP browser, Page 7, 83 or page 10,

106) on a first computing device (Fig 2, Ref 210) including a wireless interface the first

application for accessing and retrieving legacy data from a remote system (Fig 2, Ref 220, 119 or

Fig 7, Ref 741) via a protocol server (Fig 2, Ref 136); initiating a second application on the first

computing device (Pages 7-8, Sec 90-98, IM application), the second application providing an

instant messaging service and enabling instant messaging data to be sent from the first

computing device (Fig 2, Ref 210) to an instant messaging server (Fig 1, Ref 116) via the

protocol server (Fig 2, Ref 136) over a wireless network (Fig 2, Ref 201-207); generating data to

be sent from the first computing device to the at least one of the plurality of second computing

devices (Pages 7-8, Sec 90-98 and Web Browser, Page 7, 83 or page 10, 106), wherein data is

generated from the first application (3, Sec 44, Page 7, Sec 83 or page 10, Sec 106) as a request

from the protocol server (Fig 2, Ref 136) to the remote system (Fig 2, Ref 220, 119 or Fig 7, Ref

741) and from the second application (Pages 7-8, Sec 90-98, WAP IM) as an instant message

from the protocol server (Fig 2, ref 136) to the instant message server (Fig 1, Ref 116) and is

transmitted by way of the wireless device (Fig 2, Ref 210); and transmitting the generated data

from the first computing device to the protocol server for delivery of the request to the legacy

system (Web Browser, Page 3, Sec 44, Page 7, Sec 83 or page 10, Sec 106) and for delivery of

the instant message to the instant messaging server for delivering the message to the second

device (Pages 7-8, Sec 90-98) wherein the instant message is delivered to the instant messaging

server for further delivery to the at least one of the plurality of second computing devices without

transmitting the instant message through the protocol server (Figs 1 and 7-8, Pages 7-8, the IM

message is forwarded to the intended recipient (Fig 7-8, Ref subscriber) via internet, Sec 90-98

or from 704 via internet 700 to 714, Fig 7). However, McDowell fails to disclose the instant

message can be distributed via LAN such private network and a wireless modem at the client

device and access point device in order to initiate a request to a modem controller for access to

the wireless digital packet switched modem. In the same field of endeavor, Parsons discloses an

office which include LAN which has a plurality of clients for exchanging instant message with a

wireless device (See Fig, 1, LAN 108, wireless device 118 using WAP and wireline device 110).

However, McDowell and Parsons do not discloses a wireless modem at the client device and

access point device in order to initiate a request to a modem controller for access to the wireless

digital packet switched modem. In the same field of endeavor, Doss discloses a method and

system comprising a plurality of client devices (Fig 2, Ref 10), plurality of application servers

(Fig 2, Ref 47-48) and protocol server (Fig 2, Ref 46) for coupling between network (Fig 2, Ref

49) and wireless packet network (Fig 2, Ref 42); the client and access point include a modem for

establishing a wireless connection between the client and access point (Pages 3-4, [0031], [0035]

and [0037]) wherein the protocol server (Fig 2, Ref 46) transmitting the generated data including

the request to the legacy system and the instant message via an X.25 protocol (Page 3, [0035]).

Since, a method and system for using the modems to establish a wireless connection

between a client and access point and internet can be a LAN are well known and expected in the

art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of

invention was made to apply a modem into a device to be use for establishing a wireless

connection between the client and access point using x.25 protocol as disclosed by Doss into the

method and system of Parsons; then apply these teaching into McDowell. The motivation would

have been to expand the intranet.

Response to Arguments

5.   Applicant's arguments with respect to claims 8-10 and 13 have been considered but are

moot in view of the new ground(s) of rejection.

Allowable Subject Matter

6.   Claims 1-2, 4-7, and 11-12 are allowed.

Conclusion

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to PHUC H. TRAN whose telephone number is (571)272-3172.

The examiner can normally be reached on M-F (8-4:30).

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUC H TRAN/
Examiner, Art Unit 2416